

#### **IV. REMARKS**

In the Office Action, all of the pending claims were allowed except for claim 88 which was rejected under 35 U.S.C. 101 as being in a non-statutory format.

In this response, claim 88 is amended to provide the proper format for the computer readable memory medium. Specifically, claim 88 now recites a "computer readable storage medium comprising computer program code means for determining a bit rate of information transferred through a protocol layer of a protocol stack via a logical channel, the computer program code means configured to." It is respectfully submitted that this is statutory subject matter and that the amendment does not alter the scope of the claim. Support for this amendment can be found at least on page 22, line 29 to page 23, line 16.

Since this amendment does not introduce any new issues for consideration and/or search, it is considered appropriate to enter this amendment after the Final Rejection without the need to file an RCE (Request of Continued Examination).

Other amendments are also made. In the case of claims 6 and 7 which depended from claim 1, claim 7 is amended to depend from claim 6 to provide proper antecedent basis for "the WCDMA protocol stack". In the case of claims 37 and 38 which depended from independent claim 27, claim 38 is amended to depend from claim 37 to provide proper antecedent basis for "the WCDMA protocol stack". Claims 49, 70 and 85 are amended to reduce the pre-amble. It is believed that the amendments to claims 7, 38, 49, 70 and 85 do not raise any issues that would preclude their entry after the Final Rejection.

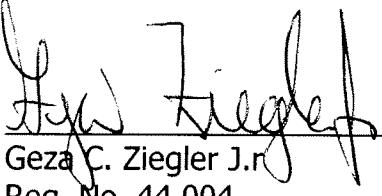
In independent claim 36, at the end of the claim, the word "first" is deleted as surplusage.

At a few other locations words were amended with changes of a linguistic nature.

For the foregoing reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record, and are in proper form for allowance. Accordingly, favorable reconsideration and allowance is respectfully requested. Should any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

The Commissioner is hereby authorized to charge payment for any fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,

  
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Geza C. Ziegler Jr.  
Reg. No. 44,004

15 Dec 2008  
Date

Perman & Green, LLP  
425 Post Road  
Fairfield, CT 06824  
(203) 259-1800  
Customer No.: 2512